

# HOUSE . . . . . No. 1443

By Mr. Scibak of South Hadley, petition of John W. Scibak and others establishing a consumer identity security alert plan. Consumer Protection and Professional Licensure.

## The Commonwealth of Massachusetts

### PETITION OF:

John W. Scibak	William M. Straus
Barbara A. L'Italien	Thomas J. O'Brien
Shirley Gomes	

In the Year Two Thousand and Five.

AN ACT RELATIVE TO THE PREVENTION OF IDENTITY THEFT.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 50 of chapter 93 of the General Laws, as  
2 appearing in the 2000 Official Edition, is hereby amended by  
3 inserting after the definition of "prescreening" the following defi-  
4 nitions: "Security alert", means a notice placed on a consumer file  
5 that alerts a recipient of a consumer report involving that file that  
6 the consumer's identity may have been used without the con-  
7 sumer's consent to fraudently obtain goods or services in the con-  
8 sumer's name. "Security freeze" means a notice placed on a  
9 consumer file that prohibits a consumer reporting agency from  
10 releasing a consumer report relating to the extension of credit  
11 involving that consumer file without the express authorization of  
12 the consumer.

1 SECTION 2. Chapter 93, as so appearing is hereby further  
2 amended by inserting after section 51A, as so appearing, the  
3 following section: Section 51B. Consumer election to secure  
4 credit freeze.

5 (a) A consumer may place a security freeze on his or her credit  
6 report by making a request in writing by certified mail to a credit-  
7 reporting agency. A security freeze shall prohibit, subject to the  
8 exceptions in Section 51(b) of chapter 93, the credit-reporting  
9 agency from releasing the consumer's credit report or any infor-  
10 mation from it without the express authorization of the consumer.  
11 When a security freeze is in place, information from a consumer's  
12 credit report shall not be released to a third party without prior  
13 express authorization from the consumer. This subsection does  
14 not prevent a credit-reporting agency from advising a third party  
15 that a security freeze is in effect with respect to the consumer's  
16 credit report.

17 (b) A credit-reporting agency shall place a security freeze on a  
18 consumer's credit report no later than five business days after  
19 receiving a written request from the consumer.

20 (c) A credit-reporting agency may impose a reasonable charge  
21 on a consumer for placing a security freeze on a consumer file.  
22 The amount of the charge may not exceed \$10. On January 1 of  
23 each year, a consumer-reporting agency may increase the charge  
24 for placing a security freeze. The increase, if any, must be based  
25 proportionally on changes to the Consumer Price Index for All  
26 Urban Consumers as determined by the United States Department  
27 of Labor with fractional changes rounded to the nearest 50 cents.

28 (d) A credit-reporting agency may not charge a fee in the  
29 following instances, when (1) a consumer has been the victim of  
30 identity theft and requests a security freeze in writing by certified  
31 mail to a credit reporting agency with a valid copy of a police  
32 report, investigative report, or complaint the consumer has filed  
33 with a law enforcement agency about unlawful use of his or her  
34 personal information by another person. In such situations, a  
35 credit reporting agency shall not charge a fee for placing,  
36 removing or removing for a specific party, parties or time a secu-  
37 rity freeze on a credit report; (2) a consumer is sixty-two years of  
38 age or older, he or she shall not be charged a fee for placing,  
39 removing or removing for a specific party, parties or time a secu-  
40 rity freeze on a credit report; (3) a request by the consumer for a  
41 copy of the consumer's file while the consumer has a security  
42 freeze in place; (4) notification of the deletion of information that  
43 is found to be inaccurate or can no longer be verified sent to a

44 person designated by the consumer, as prescribed by Section 611  
45 of the Fair Credit Reporting Act (15 U.S.C. Section 168li); (5)  
46 providing a set of instructions for understanding the information  
47 presented on the consumer report; (6) providing a current and  
48 operational toll-free telephone number that consumers may call to  
49 obtain additional assistance concerning the consumer report.

50 (e) This act does not prevent a credit-reporting agency from  
51 charging a fee for placing a security freeze on a consumer's credit  
52 report, pursuant to section (c) of this section. Nor does it prevent  
53 a credit reporting agency from charging a fee for a temporary lift  
54 of the freeze for a specific party, parties or period of time  
55 regarding access to a consumer credit report, except that a credit  
56 reporting agency shall not charge a fee to a victim of identity theft  
57 pursuant to section (c) of this title. The fee to temporarily lift a  
58 security freeze for a specific party, parties or time shall be less  
59 than the amount to place a security freeze on a consumer's credit  
60 report.

61 (f) At no time shall the consumer be charged for revoking the  
62 freeze.

63 (g) The credit reporting agency shall send a written confirma-  
64 tion of the security freeze to the consumer within 10 business days  
65 and shall provide the consumer with a unique personal identifica-  
66 tion number or password, other than the customer's social security  
67 number, to be used by the consumer when providing authorization  
68 for the release of his or her credit for a specific party, parties, or  
69 period of time. Simultaneously, the credit-reporting agency shall  
70 disclose to the consumer the process of placing, removing and  
71 temporarily lifting a security freeze and the process for allowing  
72 access to information from the consumer's credit report for a spe-  
73 cific party, parties, or period of time while the security freeze is in  
74 place as well as the process for permanently removing a security  
75 freeze from the consumer's credit report.

76 (h) If the consumer wishes to allow his or her credit report to be  
77 accessed by a specific part, parties, or for a specific person of time  
78 while a freeze is in place, he or she shall contact the credit  
79 bureau, request that the freeze be temporarily lifted, and provide  
80 (1) proper identification, (2) the unique personal identification  
81 number or password provided by the credit-reporting agency pur-  
82 suant to the subsection (g) of this section, and (3) the proper infor-

83 mation regarding the third party, parties, or time period for which  
84 the report shall be available to users of the credit report.

85 (i) A security freeze shall remain in place until the consumer  
86 requests that the security freeze be removed. A credit-reporting  
87 agency shall remove a security freeze within three business days  
88 of receiving a request for removal from the consumer who pro-  
89 vides both proper identification and the unique personal identifi-  
90 cation number or password provided by the credit-reporting  
91 agency pursuant to subsection (g) of this section.

92 (j) A credit reporting agency shall remove or temporarily lift a  
93 freeze placed on a consumer's credit report only upon the con-  
94 sumer's request, pursuant to subsection (h) or (i) of this section, or  
95 if the consumer's credit report was frozen due to a material mis-  
96 representation of fact by the consumer. If a credit-reporting  
97 agency intends to remove a freeze upon a consumer's credit report  
98 pursuant to this subdivision, the credit-reporting agency shall  
99 notify the consumer in writing by certified mail prior to removing  
100 the freeze on the consumer's credit report.

1 SECTION 3. The provisions of section 51B of chapter 93 do  
2 not apply to the use of a consumer report by the following: (a) a  
3 person or entity, or its affiliates, or collection agencies acting on  
4 behalf of the person or entity with which a consumer has an  
5 existing account that requests information in the consumer's credit  
6 report for the purposes of reviewing or collecting the account,  
7 provided that the consumer has previously given consent to this  
8 use of the credit reports. Reviewing the account includes activi-  
9 ties related to account maintenance, monitoring, credit line  
10 increases, and account upgrades and enhancements; (b) a person,  
11 or the person's subsidiary, affiliate, agent or assignee with which  
12 the consumer has or, prior to assignment, had an account, con-  
13 tract, or debtor-creditor relationship for the purposes of reviewing  
14 the account or collecting the financial obligation owing for the  
15 account, contract, or debt, or extending credit to a consumer with  
16 a prior or existing account, contract, or debtor-creditor relation-  
17 ship, For purposes of this subdivision, "reviewing the account"  
18 includes activities related to account maintenance, monitoring,  
19 credit line increases, and account upgrades and enhancements; (c)  
20 a subsidiary, affiliate, agent, assignee or prospective assignee of a

21 person to whom access has been granted for the purposes of facili-  
22 tating the extension of credit or other permissible use; (d) any  
23 person acting pursuant to a court order, warrant, or subpoena; (e)  
24 governmental agency or entity when investigating allegations of  
25 fraud regarding receipt of any governmental benefits, or the inves-  
26 tigation or collection of delinquent taxes or assessments; (f) a per-  
27 son's use of credit information for the purposes of prescreening as  
28 provided by the federal Fair Credit Reporting Act; (g) a person  
29 for the sole purpose of providing a credit files monitoring sub-  
30 scription service to which the consumer has subscribed; (h) a  
31 credit-reporting agency for the sole purpose of providing a con-  
32 sumer with a copy of his or her credit report upon the consumer's  
33 request; (i) a consumer credit reporting agency that acts only as a  
34 reseller of credit information by assembling and merging informa-  
35 tion contained in the database of another consumer credit  
36 reporting agency or multiple consumer credit reporting agencies,  
37 and does not maintain a permanent database of credit information  
38 from which new consumer credit reports are produced. However,  
39 a consumer credit reporting agency shall honor any security freeze  
40 placed on a consumer credit report by another consumer credit  
41 reporting agency.

1 SECTION 4. (a) A consumer credit reporting agency (credit  
2 reporting agency) shall honor a security freeze placed on a con-  
3 sumer file by another consumer credit reporting agency.

4 (b) Once a security freeze has been activated, the credit  
5 reporting agency shall send written notice to the consumer when  
6 access to their consumer credit report is requested. Such notice  
7 shall contain the date of such request and origin of the request in  
8 terms easily understood by the consumer.

9 (c) Any consumer damaged by an intentional or negligent vio-  
10 lation of section 51B of chapter 93 may bring an action for and  
11 shall be entitled to recovery of actual damages, plus, reasonable  
12 attorney fees, court costs, and other reasonable costs of prosecu-  
13 tion of the suit.